

Message Text

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ACTION EA-12

INFO OCT-01 ISO-00 CIAE-00 INR-07 NSAE-00 PA-01
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FM AMEMBASSY TOKYO

TO SECSTATE WASHDC 3596

INFO SECDEF WASHDC

CINCPAC HONOLULU HI

COMUSJAPAN YOKOTA AB JA

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E.O. 11652: N/A

TAGS: MARR, JA

SUBJECT: YOKOHAMA CONSIDERS ATTEMPT TO RESTRICT US MILITARY
FLIGHTS

REF: TOKYO 14902 AND SUBSEQUENT

1. SUMMARY: IN AFTERMATH OF F-4 ACCIDENT (REFTEL), YOKOHAMA
MAYOR ASUKATA HAD INTRODUCED LEGISLATION IN YOKOHAMA
CITY ASSEMBLY RESTRICTING US MILITARY FLIGHTS OVER CITY.
WHILE LEGISLATION HAS JUST BEEN WITHDRAWN FOLLOWING
ASUKATA'S ASSUMPTION OF JSP CHAIRMANSHIP, PASSAGE
THREATENED TO BE TROUBLESOME POLITICALLY AND, POSSIBLY,
LEGALLY. IT SEEMS UNLIKELY THAT FOLLOW-UP EFFORT WILL
BE SET IN MOTION IN NEAR FUTURE, BUT POSSIBILITY CANNOT
BE RULED OUT. END SUMMARY.

2. CAPITALIZING ON SEPTEMBER 27 RF-4B CRASH IN YOKOHAMA
MAYOR ASUKATA DECEMBER 7 INTRODUCED LEGISLATION IN
YOKOHAMA MUNICIPAL ASSEMBLY, WHICH WOULD RESTRICT AIRCRAFT
FLIGHTS (INCLUDING THOSE OF US FORCES) OVER CITY. OPERATIVE
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PROVISIONS WOULD PRESCRIBE FLIGHT PATHS, REQUIRE PRIOR
NOTIFICATION OF FLIGHTS TO MUNICIPALITY AND SPECIFY
MAXIMUM NOISE LEVEL AUDIBLE AT GROUND LEVEL (75 PHONS).
THIS NOISE LEVEL LIMITED AMOUNTED INDIRECTLY TO ALTITUDE
RESTRICTION IN THAT IT IS ESTIMATE OF NOISE LEVEL OF
F-4 AT 4000 METERS, CONSIDERED BY LEGISLATIONS' PROPONENTS
TO BE "SAFE" ALTITUDE AS AIRCRAFT PRESUMABLY COULD LAND

IN SEA IF MECHANICAL TROUBLE DEVELOPED AT THAT HEIGHT.

3. SINCE ASUKATA AGREED TO BECOME CHAIRMAN OF JAPAN SOCIALIST PARTY, OPPOSITION PARTIES IN CITY ASSEMBLY HAVE DEMANDED THAT CITY ADMINISTRATION WITHDRAW ALL BILLS WITH LONG-TERM IMPACT, I.E., BEYOND DATE OF ASUKATA'S RESIGNATION AS MAYOR. ACCORDINGLY ON DECEMBER 9, ASUKATA ASKED CHAIRMAN OF THE ASSEMBLY TO RETRACT THE FLIGHT RESTRICTION BILL AS BEING IN THIS CATEGORY. THUS, PROBLEM HAS DISAPPEARED FOR TIME BEING, BUT POSSIBILITY OF REINTRODUCTION OF BILL BY SUCCESSOR ADMINISTRATION IS NOT OUT OF QUESTION.

4. ALTHOUGH JAPAN-US SOFA IS NOT FORMALLY A TREATY GOJ HAS ALWAYS REGARDED IT AS A TREATY AND WOULD SUPPORT POSITION THAT US FORCES RIGHTS UNDER SOFA CANNOT BE AFFECTED BY A LOCAL ORDINANCE. NEVERTHELESS, PASSAGE OF LEGISLATION SIMILAR TO THAT PROPOSED EITHER IN YOKOHAMA OR IN OTHER LOCALITIES NEAR US AIR BASES WOULD BE TROUBLESOME FOR US FORCES AND SELF DEFENSE FORCES FROM BOTH POLITICAL AND, POTENTIALLY, LEGAL VIEW POINTS. WHILE FONOFF HAS NOTED THAT FLIGHT PATH AND NOTIFICATION RESTRICTIONS CLEARLY CONFLICT WITH JURISDICTION OF MINISTRY OF TRANSPORTATION AND WOULD BE VOID ON CONSTITUTIONAL GROUNDS, BECAUSE JAPAN COURT SYSTEM DOES NOT HAVE TRADITION OF EXPEDITIOUSLY SETTLING ISSUES ON CON-

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STITUTIONAL GROUNDS, ANTI-BASE FACTION COULD PROBABLY MAKE CONSIDERABLE POLITICAL YARDAGE IF REGULATIONS WERE PASSED. NOISE POLLUTION RESTRICTIONS PRESENT DIFFERENT PROBLEMS NOT AS CLEAR CUT IN CONSTITUTIONAL TERMS. GOJ'S ENVIRONMENTAL PROTECTION AGENCY HAS OVERALL AUTHORITY FOR ENVIRONMENTAL POLICY IN JAPAN, BUT MUNICIPALITIES HAVE AUTHORITY TO REGULATE THEIR OWN ENVIRONMENTAL STANDARDS. EXISTING ENVIRONMENTAL LAW EXHORTS USFJ AND JSDF TO MEET NATIONAL POLLUTION STANDARDS, BUT THIS LAW IS NOT BINDING. THIS MIXTURE OF AUTHORITIES COULD GIVE RISE TO THIS LAWSUIT SIMILAR TO THAT ACTION CURRENTLY PENDING AGAINST GOJ IN HACHIOJI DISTRICT COURT CONCERNING NOISE FROM YOKOTA.

5. COMMENT: FORTUNATELY, THANKS TO VAGARIES OF SOCIALIST PARTY FACTIONALISM, ASUKATA AND A POTENTIALLY TROUBLE-SOME PROBLEM APPEAR TO HAVE GONE AWAY FOR TIME BEING. MANSFIELD

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